



**U.S. Citizenship
and Immigration
Services**

Non-Precedent Decision of the
Administrative Appeals Office

In Re: 11109014

Date: JUN. 25, 2021

Appeal of Texas Service Center Decision

Form I-140, Immigrant Petition for Alien Worker (Advanced Degree, Exceptional Ability, National Interest Waiver)

The Petitioner, a CEO and entrepreneur, seeks second preference immigrant classification as an individual of exceptional ability in the sciences, arts or business, as well as a national interest waiver of the job offer requirement attached to this EB-2 classification. See Immigration and Nationality Act (the Act) section 203(b)(2), 8 U.S.C. § 1153(b)(2). After a petitioner has established eligibility for EB-2 classification, U.S. Citizenship and Immigration Services (USCIS) may, as matter of discretion, grant a national interest waiver if the petitioner demonstrates: (1) that the foreign national's proposed endeavor has both substantial merit and national importance; (2) that the foreign national is well positioned to advance the proposed endeavor; and (3) that, on balance, it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification. Matter of Dhanasar, 26 I&N Dec. 884 (AAO 2016).

The Director of the Texas Service Center denied the petition, concluding that the Petitioner did not qualify for the underlying classification. The Director additionally determined that the proposed endeavor lacked national importance and that the evidence did not establish that the Petitioner is well positioned to advance the proposed endeavor. Accordingly, the Director determined that the Petitioner had not established eligibility for a national interest waiver.

The matter is now before us on appeal. The Petitioner submits additional evidence and reasserts his eligibility, arguing that the Director did not properly weigh and consider the evidence.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit. Section 291 of the Act, 8 U.S.C. § 1361. Upon de novo review, we will dismiss the appeal.

I. LEGAL FRAMEWORK

To establish eligibility for a national interest waiver, a petitioner must first demonstrate qualification for the underlying EB-2 visa classification (emphasis added), as either an advanced degree professional or an individual of exceptional ability in the sciences, arts, or business. Because this classification requires that the individual's services be sought by a U.S. employer, a separate showing is required to establish that a waiver of the job offer requirement is in the national interest.

Section 203(b) of the Act sets out this sequential framework:

(2) Aliens who are members of the professions holding advanced degrees or aliens of exceptional ability. –

(A) In general. – Visas shall be made available . . . to qualified immigrants who are members of the professions holding advanced degrees or their equivalent or who because of their exceptional ability in the sciences, arts, or business, will substantially benefit prospectively the national economy, cultural or educational interests, or welfare of the United States, and whose services in the sciences, arts, professions, or business are sought by an employer in the United States.

(B) Waiver of job offer –

(i) National interest waiver. . . . [T]he Attorney General may, when the Attorney General deems it to be in the national interest, waive the requirements of subparagraph (A) that an alien’s services in the sciences, arts, professions, or business be sought by an employer in the United States.

Section 101(a)(32) of the Act provides that “[t]he term ‘profession’ shall include but not be limited to architects, engineers, lawyers, physicians, surgeons, and teachers in elementary or secondary schools, colleges, academics, or seminaries.”

The regulation at 8 C.F.R. § 204.5(k)(2) contains the following relevant definitions:

Advanced degree means any United States academic or professional degree or a foreign equivalent degree above that of baccalaureate. A United States baccalaureate degree or a foreign equivalent degree followed by at least five years of progressive experience in the specialty shall be considered the equivalent of a master’s degree. If a doctoral degree is customarily required by the specialty, the alien must have a United States doctorate or a foreign equivalent degree.

Exceptional ability in the sciences, arts, or business means a degree of expertise significantly above that ordinarily encountered in the sciences, arts, or business.

Profession means one of the occupations listed in section 101(a)(32) of the Act, as well as any occupation for which a United States baccalaureate degree or its foreign equivalent is the minimum requirement for entry in the occupation.

In addition, the regulation at 8 C.F.R. § 204.5(k)(3)(ii) sets forth the specific evidentiary requirements for demonstrating eligibility as an individual of exceptional ability. A petitioner must submit documentation that satisfies at least three of the six categories of evidence listed at 8 C.F.R. § 204.5(k)(3)(ii).

Furthermore, while neither the statute nor the pertinent regulations define the term “national interest,” we set forth a framework for adjudicating national interest waiver petitions in the precedent decision *Matter of Dhanasar*, 26 I&N Dec. 884 (AAO 2016).¹ *Dhanasar* states that after a petitioner has established eligibility for EB-2 classification, U.S. Citizenship and Immigration Services (USCIS) may, as matter of discretion,² grant a national interest waiver if the petitioner demonstrates: (1) that the foreign national’s proposed endeavor has both substantial merit and national importance; (2) that the foreign national is well positioned to advance the proposed endeavor; and (3) that, on balance, it would be beneficial to the United States to waive the requirements of a job offer and thus of a labor certification.³

II. ANALYSIS

A. Evidentiary Criteria for Member of the Professions Holding an Advanced Degree

The Director determined that the Petitioner did not qualify as a member of the professions holding an advanced degree. In his initial filing, the Petitioner submitted a notification from his Nigerian school, [REDACTED] University, which stated that he had fulfilled all the school’s requirements, passed the required examinations, and was approved to be awarded a Bachelor of Laws degree in effect from November 2006. The Petitioner did not submit his diploma or transcript.

The Director noted in a request for evidence (RFE) that in order to qualify as a member of the professions holding an advanced degree, that the Petitioner needed to submit an accompanying academic evaluation to establish the U.S. equivalency of his foreign degree. The RFE further notified the Petitioner that the evidence did not establish five years of progressive, post-baccalaureate employment experience, or how his education related to the proposed endeavor, which had been described as “CEO” and “business/housing developer” on the Form I-140.

In his RFE response, the Petitioner did not provide sufficient documentation to address these deficiencies. In her decision denying the petition, the Director noted that the employment letters provided in the RFE response did not include the Petitioner’s specific employment dates, nor did the Petitioner submit his complete academic record or a foreign academic equivalency evaluation.

On appeal, the Petitioner still has not provided his complete academic record but provides an academic equivalency evaluation which states that the Petitioner has earned a Nigerian Bachelor’s of Law degree, and that it is equivalent to a U.S. juris doctor degree. Upon review of the academic equivalency evaluation, we note that the evaluator considered transcripts and grades issued by the Registrar of [REDACTED] University on June 9, 2018. However, the record contains no transcript, grades, or diploma, and the only reference we have for these documents comes from the information listed in the evaluation. Therefore, the evaluation is based upon documentation not in the record and not available for our independent inspection and verification. Moreover, although the evaluation lists the Petitioner’s courses, grades, and years of attendance, it does not contain an adequate explanation of how the Petitioner’s five-

¹ In announcing this new framework, we vacated our prior precedent decision, *Matter of New York State Department of Transportation*, 22 I&N Dec. 215 (Act. Assoc. Comm’r 1998).

² See also *Poursinav*, USCIS, 936 F.3d 868, 2019 WL 4051593 (9th Cir. 2019) (finding USCIS’ decision to grant or deny a national interest waiver to be discretionary in nature).

³ See *Dhanasar*, 26 I&N Dec. at 888-91, for elaboration on these three prongs.

year degree is the equivalent of a U.S. juris doctor degree, which typically requires a four-year bachelor's degree in addition to a three-year law degree. We may, in our discretion, use an evaluation of a person's foreign education as an advisory opinion. *Matter of Sea, Inc.*, 19 I&N Dec. 817, 820 (Comm'r 1988). However, where an opinion is not in accord with other information or is in any way questionable, we may discount or give less weight to that evaluation. *Id.* Here, the evaluator utilized documents and made assertions not adequately supported with evidence. Therefore, the evaluation has little probative value in this matter.

The evidence submitted on appeal contains new employer letters, one of which is from the Petitioner's company [REDACTED]. The letter states that the Petitioner is a founder of the company and has been fully employed since March 2012 as a board member. This letter does not establish that the Petitioner's experience has been progressive, as it contains little discussion of the Petitioner's duties and experience. In fact, the letter defers to the Petitioner to explain what his experience involves. Although the Petitioner claimed that his company has a human resources division, the letter is not issued by this division, but rather it is from another board member who, based upon a shared last name, appears to be a relative of the Petitioner.

The appeal also contains two letters from [REDACTED] one of which states that the Petitioner worked from November 2007 to December 2011 "in the capacity of Investment advisor and grew to become the Sales Manager." Another letter dated in 2007, offers the Petitioner employment as a "Sales Managers/Investment Advisor." From these two letters, it is not clear how the Petitioner's work experience was progressive or how the Petitioner "grew to" a new position as Sales Manager when he had already been offered the position of Sales Managers/Investment Advisor in 2007. The Petitioner also stated on appeal that he "started with the position of Sales Managers/Investment Advisor," which does not suggest any progressive work experience.⁴ Moreover, because the letters do not sufficiently describe the duties, it cannot be concluded that if the two positions are different, that the movement was progressive, as opposed to lateral, in nature.⁵

We question the credibility of these letters and at a minimum conclude that they lack probative value in establishing the Petitioner's work experience. Overall, these credibility concerns lead us to question whether the Petitioner attempted to cure deficiencies in the record by creating evidence that did not exist at the time of filing his petition. The Petitioner must resolve inconsistencies with independent, objective evidence pointing to where the truth lies. *Matter of Ho*, 19 I&N Dec. 582, 591-92 (BIA 1988). Unresolved material inconsistencies may lead us to reevaluate the reliability and sufficiency of other evidence submitted in support of the requested immigration benefit. *Id.*

In his RFE response, the Petitioner described his area of exceptional ability as business development and entrepreneurship. On appeal, the Petitioner explains that his "background in the Law of contract"

⁴ With his initial filing, the Petitioner stated that he also worked as property consultant and as one of the directors of [REDACTED] however neither of these claims is substantiated in the record. By contrast, the initial letter from [REDACTED] stated that the Petitioner worked as a real estate broker. The inconsistent claims combined with a lack of specific information diminish the credibility of these letters.

⁵ It should be noted that the letter dated in 2007 appears to be of the same quality, age, and nature as the letter issued in 2020, neither of which bears an original signature. The ink, paper, and logo suggest that the 2007 letter may have actually been written and printed in 2020. Both letters bear the spelling of the street name [REDACTED] which appears in other parts of the record as [REDACTED] and [REDACTED]. Finally, an internet search reveals a different address for this company than the one listed on these letters.

guides him in business and property law, which informs his work in real estate and investments. Here, the Petitioner offers an insufficient connection between his degree and the proposed endeavor. While we do not have the Petitioner's academic record, we note the equivalency evaluation lists the Petitioner as having taken several contracts courses but no classes in business, property/real estate, corporate, or investment law. The Petitioner offers little other evidence or explanation to establish a connection between his education and his claimed expertise in business development and entrepreneurship.

Due to the evidentiary deficiencies in his academic degree and work experience, we conclude that the Petitioner has not established that he is a member of the professions with an advanced degree.

B. Evidentiary Criteria for Exceptional Ability

The Director also determined that the Petitioner did not qualify as an individual of exceptional ability. As discussed below, a review of the record indicates that the Petitioner does not meet at least three of the relevant evidentiary criteria.

An official academic record showing that the alien has a degree, diploma, certificate, or similar award from a college, university, school, or other institution of learning relating to the area of exceptional ability. 8 C.F.R. § 204.5(k)(3)(ii)(A)

We noted above that the Petitioner has not submitted his academic record, nor has he sufficiently connected the claimed academic degree of a Bachelor's of Law to the claimed area of exceptional ability.⁶ Accordingly, the evidence does not establish that the Petitioner satisfied this criterion.

Evidence in the form of letter(s) from current or former employer(s) showing that the alien has at least ten years of full-time experience in the occupation for which he or she is being sought. 8 C.F.R. § 204.5(k)(3)(ii)(B)

While the progressive nature of the Petitioner's work with his own company, [REDACTED], has not been established, sufficient documentation in the record does establish that he has been employed in business and entrepreneurship with [REDACTED] since 2012. The Petitioner claimed that even since living in the United States as of April 2018, he still works fifty hours a week for [REDACTED].

We also acknowledge a letter of recommendation from [REDACTED], which states that the Petitioner has been working as a franchisee since 2009. This letter, however, conflicts with the franchise purchase documents that were not signed until 2016, and which state that they are effective from 2010. The Petitioner claims to work fifty hours per week for [REDACTED] and has described himself as a manager. However, neither the letter from a fellow franchisee nor the Petitioner's self-reported claims are sufficient to serve as evidence from the Petitioner's current or former employer(s), nor do these claims establish the Petitioner's full-time experience in the occupation. Moreover, as explained previously, the letters issued by [REDACTED] describe

⁶ On appeal, the Petitioner's attorney states that the Petitioner holds the equivalent of a U.S. baccalaureate degree in architecture and also refers to the Petitioner by using the feminine pronoun "she." Similarly, the attorney's initial letter references a [REDACTED] as the Petitioner, which is a name not found elsewhere in the record. Therefore, we question whether these documents were actually prepared for another petitioner.

the Petitioner's work in an inconsistent and insufficiently detailed manner, which reduces their probative value, while their appearance and content raise questions as to their credibility.

Although the Petitioner has established some work experience in the area of business and entrepreneurship, the evidence is insufficient to establish ten years of full-time experience at the time of filing. Accordingly, the Petitioner has not satisfied this criterion.

A license to practice the profession or certification for a particular profession or occupation. 8 C.F.R. § 204.5(k)(3)(ii)(C)

The Petitioner submitted a certificate signed in 2013 that states he was elected in 2012 as an "Associate" member of the Nigerian Institution of Estate Surveyors and Valuers.⁷ Initially, we note that the Director discussed this evidence under the criterion pertaining to licensure, although it is unclear whether the document represents a membership or a license. Nevertheless, the Director determined that the evidence did not establish that a license was required to practice in the occupation. On appeal, the Petitioner submitted documentation concerning the various ways one can obtain a membership to the Nigerian Institution of Estate Surveyors and Valuers. After examining the membership requirements, we question how the Petitioner meets any of them. For instance, the Petitioner does not possess a bachelor of science degree certificate in real estate, which is a basic requirement of graduates who seek membership. In any case, none of the documentation establishes why such a membership (or license) would be required to practice the occupation. Accordingly, the evidence does not establish that the Petitioner satisfied this criterion.

Evidence that the alien has commanded a salary, or other remuneration for services, which demonstrates exceptional ability. 8 C.F.R. § 204.5(k)(3)(ii)(D)

We acknowledge the [] pay slips evidencing income from Nigeria, which the Director found insufficient to satisfy this criterion.⁸ On appeal, the Petitioner submitted a foreign tax statement for years 2016-2018, which indicates income in Nigerian Naira of 1,250,000 for 2018; 875,000 for 2017; and 450,000 for 2016. Taken together, we observe inaccuracies that diminish the credibility of these documents. For instance, the pay slip income for a one-month pay period in 2018 exceeds the total income reported on the tax statement for the year 2018. The tax document was also issued after the filing of the petition and therefore does not establish eligibility at the time of filing.

To satisfy this criterion, the evidence must show that the Petitioner "has commanded a salary or remuneration for services that is indicative of his or her claimed exceptional ability relative to others working in the field." 6 USCIS Policy Manual F.5(B)(2). It appears logical and appropriate to consider the Petitioner's income based on the wage statistics or comparable evidence in the foreign country in which it is earned, rather than by converting the salary to U.S. dollars and then viewing whether that salary would be considered high in the United States. Accordingly, even if the Petitioner's evidence was credible, we would still find that he had not provided evidence to establish how his compensation compares to other CEOs working in real estate, oil, and construction in the

⁷ We acknowledge the Petitioner's statements on appeal that [] is registered and licensed to operate as a business, however this relates to the business rather than the Petitioner himself.

⁸ The majority of the pay slips were dated after the Petitioner was already living in the United States. The Petitioner did not submit U.S. tax or bank documents to substantiate the income claimed on these pay slips.

same geographical area. For the foregoing reasons, the evidence does not establish whether this income demonstrates exceptional ability. Therefore, the Petitioner has not satisfied this criterion.

Evidence of membership in professional associations. 8 C.F.R. § 204.5(k)(3)(ii)(E)

The Petitioner submitted documentation that [] and [] are business entity members of associations, however the Petitioner has not provided sufficient evidence of his own personal membership in professional associations. We acknowledge the [] Lion's Club membership certificate, however, as the Director noted, there is no evidence of how this association relates to the area of business and entrepreneurship, nor does the certificate contain a date of issuance. Returning to the Petitioner's claims of membership as an "Associate" in the Nigerian Institution of Estate Surveyors and Valuers, it remains unclear whether the Petitioner retained his 2012 membership up through the filing of the petition and if so, how he has maintained such a membership given that he does not appear to meet the membership requirements. Accordingly, the evidence does not establish that the Petitioner satisfied this criterion.

Evidence of recognition for achievements and significant contributions to the industry or field by peers, governmental entities, or professional or business organizations.
8 C.F.R. § 204.5(k)(3)(ii)(F)

As the Director stated, the evidence does not articulate specific contributions or achievements attributable to the Petitioner, rather than attributable to his business []. The Petitioner has not substantiated his initial claims that he or his company developed [] building technology, nor has he submitted evidence that shows achievement or significant contributions to the field. The article written concerning the Petitioner's philanthropic work for a boys' grammar school concerns a local award and offers no indication that the Petitioner has achieved recognition in his field by the business industry as a whole. Likewise, the letter of appreciation from the girls school also does not indicate the Petitioner has garnered recognition for a larger achievement or contribution to the industry.

The letters of recommendation that pertain to the Petitioner, as opposed to his business, do not provide specific achievements or contributions which the Petitioner made to the field overall. Instead, they largely praise his character, reference positive qualities he has as an employee, or mention achievements he has had within the particular company. Generalized conclusory statements that do not identify specific contributions or their impact in the field have little probative value. See *1756, Inc. v. U.S. Att'y Gen.*, 745 F. Supp. 9, 15 (D.D.C. 1990) (holding that an agency need not credit conclusory assertions in immigration benefits adjudications). The submission of reference letters supporting the petition is not presumptive evidence of eligibility. USCIS may evaluate the content of those letters so as to determine whether they support the petitioner's eligibility. *Id.* See also *Matter of V-K-*, 24 I&N Dec. 500, n.2 (BIA 2008) (noting that expert opinion testimony does not purport to be evidence as to "fact"). Accordingly, the evidence does not establish that the Petitioner satisfied this criterion.

Summary

The record does not support a finding that the Petitioner meets at least three of the six regulatory criteria for exceptional ability at 8 C.F.R. § 204.5(k)(3)(ii). The Petitioner has not established his eligibility as an individual of exceptional ability under section 203(b)(2)(A) of the Act. As previously outlined, the

Petitioner must show that he is either an advanced degree professional or possesses exceptional ability before we reach the question of the national interest waiver. The evidence does not establish that the Petitioner meets the regulatory criteria for classification as a member of the professions holding an advanced degree or that he is an individual of exceptional ability.

C. National Importance

As the Petitioner has not established eligibility for the underlying immigrant classification, the issue of the national interest waiver is moot. The waiver is available only to foreign workers who otherwise qualify for classification under section 203(b)(2)(A) of the Act. However, because the Director made additional eligibility findings and the Petitioner alleges error in the Director's decision, we will provide additional analysis using the Dhanasar framework.⁹

To evaluate whether the Petitioner's proposed endeavor satisfies the national importance requirement we look to evidence documenting the "potential prospective impact" of his work. The Director determined that the Petitioner's proposed endeavor has substantial merit but that the evidence was insufficient to establish that it meets the national importance requirement.¹⁰ The proposed endeavor involves building low cost fireproof rural housing using locally-sourced materials, as well as real estate and housing development sales. The Petitioner has pledged his endeavor will create jobs, but he has provided no estimates as to how many, what types, or in what geographical areas. He claims he will be able to offer affordable housing to lower income individuals, which would address the shortage of affordable housing, but he has not stated how much affordable housing he will create or what the broader impact will be. The Petitioner intends to invest in small businesses and obtain his building materials locally, yet he has not estimated how much revenue his proposed endeavor will create to establish how much can be invested, nor has he shown how the purchasing of local building materials will have a broader national impact. The Petitioner also espouses the fireproof virtues of his building materials, his structural designs, and his method of construction, however he does not explain how these techniques are different from home construction techniques currently being used in the United States. Although the Petitioner claims to have conducted feasibility studies and research on the endeavor, he has not provided further details or copies of the studies and research. The Petitioner referenced beginning the proposed endeavor in California, Texas and Maryland, but he has not identified where specifically, nor how focusing on these areas translates to an endeavor that is national in scope. For the foregoing reasons, the evidence is insufficient and lacks the requisite detail necessary to support a finding that the endeavor has national importance.

D. Whether the Petitioner is Well Positioned to Advance the Proposed Endeavor

The second prong shifts the focus from the proposed endeavor to the Petitioner. Although the Petitioner claims he will create jobs by hiring locally and will invest in small businesses, as well as create affordable housing in California, Texas, and Maryland, he provides few specific details on how he has positioned

⁹ While we do not discuss each piece of evidence individually, we have reviewed and considered each one.

¹⁰ Because the identified reasons for dismissal are dispositive of the Petitioner's appeal, we decline to reach and hereby reserve the arguments regarding the endeavor's substantial merit aspect of prong one of the Dhanasar framework, as well as prong three. See *INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) ("courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach"); see also *Matter of L-A-C-*, 26 I&N Dec. 516, 526 n.7 (BIA 2015) (declining to reach alternative issues on appeal where an applicant is otherwise ineligible).

himself for this to occur. He has not, for example, identified the specific rural communities where building and real estate development will occur. There is little indication that potential low-income rural customers, or any customers, have interest in the proposed endeavor. He claims his proposed endeavor will offer fireproof housing at a low cost, but he has not identified how his positioning, as compared with those of other developers already in the market, will enable him to obtain lower cost building materials and housing. The Petitioner has not established that his foreign experience and education have any bearing or significance in the U.S. housing and real estate markets. He has not submitted evidence that he has a U.S. real estate license, or has employed others with U.S. licenses, such as structural engineers and builders. The record contains little indication that he has building permits, contracts with suppliers, or intellectual property rights to the fireproof strategies he identifies. If it is the Petitioner's intention to use [redacted] to advance the proposed endeavor, which is unclear from the record, he has not submitted evidence that [redacted] is a registered business in the United States or possesses the appropriate U.S. federal or state permissions to engage in the proposed endeavor. Moreover, as suggested by his résumé and the Form ETA 9089 included in the record, the Petitioner works fifty hours a week for [redacted] and fifty hours a week as an [redacted] manager. As such, it is unclear how much time, if any, he could devote to the proposed endeavor.

We note that the Petitioner intends to fund the endeavor through financing purportedly obtained in Nigeria through the Petitioner's company [redacted].¹¹ Upon review of the Form I-140, we note that [redacted] is not listed as the petitioning organization. It is unclear how any financing secured from a bank loan in Nigeria could be disbursed to the Petitioner for use in the United States. The Petitioner referenced difficulty in obtaining the disbursement of funds from a previous loan application and there is little indication that current funds could or would be disbursed for the Petitioner's use in the United States, as opposed to [redacted]'s use for projects located in Nigeria. Nor has the Petitioner submitted credible evidence that he has sufficient personal funds to advance the proposed endeavor. We conclude that any revenue streams appear speculative in nature. The record, as currently constituted, contains few concrete avenues for financing the proposed endeavor.

For the foregoing reasons, the evidence is insufficient to establish that the Petitioner is well positioned to advance the proposed endeavor.

E. National Interest Waiver

Because the documentation in the record does not establish: (1) that the Petitioner meets the requirements of the underlying classification; (2) the national importance of the Petitioner's proposed endeavor as required by the first prong of the Dhanasar precedent decision; or (3) that the Petitioner is well positioned to advance the proposed endeavor under the second prong, the Petitioner has not demonstrated eligibility for a national interest waiver. Further analysis of his eligibility under the third prong outlined in Dhanasar, therefore, would serve no meaningful purpose.

¹¹ The Director noted that the loan documents provided by the Petitioner were issued after the petition filing and therefore were not sufficient to establish financing at the time of filing. On appeal, the Petitioner explains that the original loan documents were submitted prior to the petition filing but were subsequently cancelled. Even if true, this still would not establish that the Petitioner had secured any loan funding at the time of filing.

III. CONCLUSION

The Petitioner has not demonstrated that he qualifies for classification as a member of the professions holding an advanced degree or an individual of exceptional ability under section 203(b)(2)(A) of the Act. In addition, the evidence has not shown that the proposed endeavor is of national importance or that the Petitioner is well positioned to advance it. As such, he has not established that a waiver of the job offer and labor certification would be in the national interest of the United States. Accordingly, the Petitioner has not established eligibility for the immigration benefit sought. Section 291 of the Act, 8 U.S.C. § 1361; Matter of Otiende, 26 I&N Dec. 127, 128 (BIA 2013).

ORDER: The appeal is dismissed.